

Chapter 26.31

ENFORCEMENT

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26.31.010 Modification of Requirements.

Whenever a lot, tract, or parcel of land is of such unusual size or shape or is surrounded by such development or unusual condition that the strict application of the requirements contained in these regulations would result in actual difficulties or substantial hardship or injustice, the subdivider may request a modification of such requirements. Such request shall be filed with the Planning Director and shall set forth the specific modification requested and all supporting reasons and documentation as to why the modification should be granted, how the public welfare will be preserved, and why the modification will not detract from the intent and spirit of these regulations. The Director shall distribute copies of the requested modification and the subdivider's statement and accompanying data to other City departments and governmental agencies who are directly concerned with the proposed modification. Each department or governmental agency which is directly concerned with the proposed modification shall, within fifteen days from receipt of a copy of the requested modification, file with the Planning Director notice of its approval of the requested modification or a report stating why the modification should not be granted. Within thirty days from the filing of the request for modification, the Planning Director shall notify the subdivider in writing of the recommended approval or disapproval of the request. The request for modification will then be scheduled on the Planning Commission agenda for public hearing and action as provided below.

(a) (1) If the requested modification is recommended for approval by the Planning Director, the Planning Commission, after holding at least one public hearing on the requested modification, may vary or modify such requirements so that the subdivider may develop the land in a reasonable manner, but so that at the same time, the public welfare and interests of the city and surrounding area are protected and the general intent and spirit of these regulations are preserved.

(2) Any aggrieved person or council member may appeal any action of the Planning Commission to the City Council by filing a notice of appeal with the City Clerk within fourteen days following the action of the Planning Commission. Upon receipt of the appeal by the City Council, the Council shall hold a public hearing thereon within thirty days from the date of appeal. Notice of the public hearing shall be given as provided in Section 26.11.036. In exercising its appellate jurisdiction, the action appealed from shall be deemed advisory and the City Council may, after public hearing in conformity with the provisions of this title, make such decision as ought to be made.

(b) If the Planning Director recommends denial of the requested modification, the Planning Commission shall hold a public hearing on such request and make a report and recommendation to the City Council regarding whether the modification should be granted or denied and, if approved, how the public welfare will be preserved and why the modification, if granted, will not detract from the intent and spirit of these regulations. The findings of the Commission after public hearing shall be submitted to the City Clerk within seven days from the action by the Planning Commission. After submittal of the findings of the Planning Commission to the City Clerk, the City Clerk shall cause the requested modification to be placed on the agenda of the City Council for approval by the City Council by resolution. The City Council, after holding at least one public hearing on the requested modification, may modify such requirements so that the subdivider may develop the land in a reasonable manner, but so that at the same time, the public welfare and interests of the City and surrounding area are protected and the general intent and spirit of these regulations are preserved.

Notice of the public hearings required under this section shall be provided pursuant to Section 26.11.036 of this title. The minimum improvements set forth in Chapter 26.27 shall be required unless specifically and individually waived by the Planning Commission or City Council as provided above. (Ord. 18634 §3; October 24, 2005: prior Ord. 18247 §1; September 22, 2003: Ord. 15211 §6; July 3, 1989: Ord. 13157 §71; June 29, 1981: Ord. 11370 §1; May 19, 1975).

26.31.015 Coordinating Subdivision and Community Unit Plan, Planned Unit Development, Special Permit, and Use Permit.

A preliminary plat is not required whenever the tract to be subdivided is included in a community unit plan, planned unit development, special permit, or use permit. The approval of said community unit plan, planned unit development, special permit or use permit shall require that the tract to be subdivided conform to the requirements of this title, except that the approval may include a provision varying or modifying the requirements of this title so as to permit the coordinated development of a subdivision and a community unit plan, planned unit development, special permit, or use permit; provided the public welfare and interests of the city and surrounding area are protected and the general intent and spirit of the regulations preserved.

The Planning Director shall be authorized to approve final plats submitted in accordance with a community unit plan, planned unit development, special permit, or use permit notwithstanding the fact that such plats require modifications to the requirements of this title if such modifications were specifically approved at the time of approval of the community unit plan, planned unit development, special permit, or use permit. (Ord. 18532 §2; April 25, 2005: prior Ord. 18502 §21; February 14, 2005: Ord. 16283 §1; December 14, 1992: Ord. 15211 §7; July 3, 1989: Ord. 13956 §22; September 17, 1984: Ord. 11370 §1; May 19, 1975).

26.31.025 Review.

The Planning Commission shall review the land subdivision ordinance two years from the date of the adoption hereof and biennially thereafter for the purpose of evaluating its effectiveness and making recommendations as to possible amendments. Thirty days prior to such review, notices shall be sent to all city department heads in order that they may provide comments on the administration of this title. Review by the commission shall in no way affect the validity of this ordinance, nor any portion hereof. (Ord. 11370 §1; May 19, 1975).

26.31.030 Penalty.

Any person upon whom a duty is placed by the provisions of this title who fails, neglects, or refuses to perform such duty or who shall violate any of the provisions of this title, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not to exceed \$100.00. Each day that a violation of this chapter continues shall constitute a distinct offense and shall be punishable as such. (Ord. 15930 §14; July 29, 1991: prior Ord. 11370 §1; May 19, 1975).

26.31.040 Sediment in Public Right-of-Way; Notice to Remove; Penalty.

In addition to the penalty provided in § 26.31.030, any person responsible for sediment deposited upon any street, alley, sidewalk, public way or public ground within the City as a result of tracking, runoff or other erosion and sedimentation from a building or development site shall remove the same within a reasonable period of time as shall be required by notice signed by the Director of Public Works and Utilities or his or her authorized representative and served upon such person responsible for sediment deposited personally or by certified mail. Whenever the person responsible for sediment deposited upon any street, alley, sidewalk, public way, or public ground within the City refuses or neglects to remove the same after receiving notice as provided herein, it shall be the duty of the Director of Public Works and Utilities or his or her designated representative to cause the same to be removed and the expense of the removal shall be recoverable from the person responsible in an action at law. (Ord. 18187 §4; June 2, 2003: prior Ord. 17617 §9; February 22, 2000).